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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,478	01/29/2004	Helmut Fitz	2004_0121A	3722
513 7590 12/18/2006 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER	
			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	12/18/2006	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/766,478	FITZ, HELMUT	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 March 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 27-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 51 and 52 is/are allowed.
- 6) Claim(s) 27-35 and 40-50 is/are rejected.
- 7) Claim(s) 36-39 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. Upon further consideration and in view of the reference NZ 507687 to Murdoch, the Final Office Action mailed on 6/15/2006 is hereby withdrawn. The following is a new Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 3/27/2006. Any inconvenience is regretted.

Specification

2. The abstract of the disclosure is objected to because it contains "includes comprising", and "(Figure 1)". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since claim 34 recited "at least two angle portions" which is just two angle portions, the recitation in claim 35 of a total of three angle portions renders the claimed indefinite. Should applicant elect to amend claim 35 in order to obviate this rejection, claim 35, line 1, "wherein a first one..." should be amended to read "wherein said at least two angle portions comprises at least three angle portions, a first one..."

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 27-34, 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable

over NZ 507687 to Murdoch in view of USP 3,075,820 to Humphrey and USP 4,090,753

to Rock et al.

Murdoch disclose a drawer comprising all the elements recited in the above listed claims including, such as shown in Figs 2-3, two drawer frame members 8-9, a rear wall 7 attached to said drawer frame members, a drawer bottom between said drawer frame members, a front facing panel 10 attached to said drawer frame members, said front facing panel including at least two panel portions and arranged so that the front facing panel is angled inwardly to form a right angle to each other, the rear wall angled outwardly from the front facing panel including two rear panel portions connected together to form a right angle to each other, wherein the rear panel portions being fixed to the drawer frame members by separate holding members. The differences being that Murdoch does not clearly disclose the front facing panel being adjustably attached to the drawer frame members, the two panel portions adjustable relative to one another in the horizontal and vertical directions relative to the drawer frame members, and adjustable in the horizontal and vertical directions relative to each other.

Humphrey teaches the idea of providing a drawer, such as shown in Fig 4, with a front facing panel adjustably attached to drawer frame members 87 via connectors 26, said front facing panel comprising two panel portions 78,80 adjustable relative to one another, such as shown in Fig 9, and connected to each other by fitments 52,54,82, wherein the structure discloses by Humphrey providing a knock-down front facing panel with adjustable capability for manufacturing tolerances. Therefore, it would have been obvious to modify the structure of Murdoch by having the front facing panel comprising two panel portions adjustable relative to one another, and connected to each other by fitments for the purpose of providing a knock-down front facing panel with adjustable capability for manufacturing tolerances, as taught by Humphrey, since both teach alternate conventional corner drawer structure, used for the same intended purpose, thereby providing structure as claimed.

Rock et al teaches the idea of connecting two members of a drawer by providing two panels 4,5 being adjustably connected together in the horizontal and vertical directions relative to each other by at least one fitment in order to overcome manufacturing tolerances. Therefore, it would have been obvious to modify the structure of Murdoch, as modified, by providing structures to the panels of the front facing panel such that the panels being adjustably connected together in the horizontal and vertical directions relative to each other by at least one fitment in order to overcome manufacturing tolerances, as taught by Rock et al, since both teach alternate conventional connecting means for members of a drawer, thereby providing structure as claimed.

8. Claims 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murdoch, as modified, as applied to claim 27 above, and further in view of AT 404664.

Murdoch, as modified, discloses all the elements as discussed above except for holding members mounted to the panel portions and coupled to spring-loaded arresting members in the drawer frame members, the holding members being fixed to triangular-shaped adaptor portions screwed directly to the panel portions, an inwardly-angled front base panel having openings, the holding members fixed to the front facing panel project through the openings so as to attach the front facing panel to the front base panel.

AT 404664 teaches the idea of a drawer having drawer frame members and a front facing panel, wherein holding members are mounted to the front facing panel and coupled to spring-loaded arresting members in the drawer frame members, the holding members being fixed to triangular-shaped adaptor portions screwed directly to the panel portions, an inwardly-angled front base panel having openings, the holding members fixed to the front facing panel project through the openings so as to attach the front facing panel to the front base panel; wherein the structure discloses by AT 404664 facilitates connecting the front facing panel to the drawer frame members while allowing adjustments between the drawer frame members and the front facing panel to overcome manufacturing tolerances. Therefore, it would have been obvious to modify the structure of Murdoch, as modified, by providing holding members mounted to the panel portions and coupled to spring-loaded arresting members in the drawer frame members, the holding members being fixed to triangular-shaped adaptor portions screwed directly to the panel portions, an inwardly-angled front base panel having

openings, the holding members fixed to the front facing panel project through the openings so as to attach the front facing panel to the front base panel in order to facilitate connecting the front facing panel to the drawer frame members while allowing adjustments between the drawer frame members and the front facing panel to overcome manufacturing tolerances, as taught by AT 404664, since both teach alternate conventional drawer structure, used for the same intended purpose of storing objects therein, thereby providing structure as claimed.

Allowable Subject Matter

9. Claims 51-52 are allowed.
10. Claims 36-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. Claim 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
13. In response to applicant's argument that there is not suggestion provided by Rock to arrange two panel portions of a front facing panel so that they are adjustable relative to each other, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary

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reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

14. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for combining the references stems from desired to overcome manufacturing tolerances.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
December 08, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

